

**IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

TINNA SHERMAN,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO:3:07CV1100
)	
OPELIKA AUTO GROUP, INC.,)	
)	
Defendant.)	

MOTION TO COMPEL

COMES NOW the Defendant, Opelika Auto Group, Inc., by John Martin Galese and Cassandra J. Harris, its attorneys, and moves this Honorable Court for an Order compelling the Plaintiff to answer the interrogatories, to produce the requested documents, and for the appropriate fees and costs associated with having to prosecute this Motion to Compel. The grounds for this motion are as follows:

1. The parties entered into and filed their Report of Parties' Planning Meeting on January 2, 2008.
2. The Plaintiff was served with the Defendant's First Consolidated Discovery on January 2, 2008. (Exhibit A). Responses to the discovery were due on or before February 4, 2008.
3. The Plaintiff completely failed to respond to these discovery requests and on February 5, 2008, counsel for Defendant e-mailed counsel for Plaintiff requesting responses to

the discovery requests in an attempt to resolve this matter through informal means.
(Exhibit B).

4. In response to the February 5, 2008 e-mail, Plaintiff's counsel requested additional time in which to respond to the discovery requests. (Exhibit B). Defendant's counsel granted the Plaintiff's requested extension. (Exhibit B).
5. On February 10, 2008, Plaintiff's counsel indicated that the responses were prepared for his client's signature and that they would be placed in the mail the following afternoon. (Exhibit B).
6. However, contrary to Plaintiff's counsel's February 10, 2008 email, as of the date of this Motion no responses or documents from the Plaintiff have been received.
7. The discovery is reasonable and necessary for the proper defense of this matter and the Defendant will be prejudiced if the Plaintiff is not compelled to respond to the interrogatories and to produce the requested documents.

WHEREFORE, from all of the above, Defendant moves this Honorable Court for the entry of an Order compelling the Plaintiff to respond to the discovery requests and for the fees and costs associated with having to prosecute this motion.

Respectfully Submitted,

/s/ John Martin Galese

/s/ Cassandra J. Harris

John Martin Galese, ASB-5382-E61J

Cassandra J. Harris, ASB-2841-D52H

OF COUNSEL:

GALESE & INGRAM, P.C.

800 Shades Creek Parkway, Suite 300

Birmingham, Alabama 35209

(205) 870-0663

E-mail: john@galese-ingram.com
sandy@galese-ingram.com

CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2008, I electronically filed the above and foregoing pleading with the Clerk of Court, which sends notice to all parties and counsel of record.

/s/ John Martin Galese

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)	
Defendant.)	

**DEFENDANT'S FIRST CONSOLIDATED
DISCOVERY TO PLAINTIFF**

COMES NOW the Defendant, Opelika Auto Group, Inc. (sometimes referred to herein as "Mike Patton Ford"), by and through its attorney John Martin Galese, and propounds the following INTERROGATORIES, PRODUCTION REQUESTS and REQUESTS FOR ADMISSIONS to be answered, admitted or denied within the time permitted by the Rules of this Court, and produced at the United States District Courthouse, Montgomery, Alabama, office of the Clerk, on February 13, 2008 at 10AM.

EXHIBIT A

2

REQUESTS FOR ADMISSIONS

1. Please admit that you lied to one or more customers of this Defendant, while employed by this Defendant.
2. Please admit that you agreed to be bound by the terms of the Defendant's anti-harassment and anti-discrimination policy, as a condition of your employment with the Defendant.
3. Please admit that you never completed required computer training in order to qualify for direct compensation payments from one or more vehicle manufacturers.
4. Please admit that you used obscene and profane language at the Defendant's place of business.
5. Please admit that you received both verbal and written warnings about your conduct at the Defendant's dealership, prior to your termination.
6. Please admit that you applied for unemployment compensation benefits arising out of your termination of employment from this Defendant.
7. Please admit that you were found to be disqualified for unemployment benefits arising out of your termination of employment from this Defendant, because of misconduct associated with your employment with the Defendant.

8. Please admit that you never timely appealed the finding of disqualification for unemployment compensation benefits arising out of your employment with this Defendant.
9. Please admit that you never reported any sexual harassment or discrimination to any manager of the Defendant, prior to your filing an EEOC charge.
10. Please admit that the Defendant had in force and effect, at the time of your alleged employment, a written policy against harassment and discrimination.
11. Please admit that you failed to follow the provisions of the Defendant's written anti-harassment and anti-discrimination policy.
12. Please admit that the Defendant did not harass or discriminate against you based on your sex.
13. Please admit that you did not file a charge of a sexually hostile work environment at Mike Patton Ford, with the EEOC, prior to filing this civil action.
14. Please admit that you did not file a charge of sexual harassment against Mike Patton Ford with the EEOC prior to filing this civil action.
15. Please admit that the Defendant had valid, non-pretextual reasons for terminating your employment.

INTERROGATORIES

1. For each request for admission that you have denied or failed to respond to with an unqualified admission, state the request for admission number and provide the factual basis for any denial or qualification of your response.
2. To the best of your recollection, state the date, identify all persons present, and state what each party to the conversation said, in every conversation that you had with any agent, servant or employee of the Defendant, of or concerning the issues raised in your EEOC charge and in your civil action styled above.
3. Please state each fact known to you (a) at the time of filing the Complaint in this action in the US District Court and (b) at any time thereafter, which you claim or contend constitutes proof of any sexual harassment or discrimination suffered by you.
4. Please provide all residence addresses where you have resided since January 1, 1995.
5. Please state each fact known to you (a) at the time of filing of the Complaint in this action in the US District Court and (b) at any time thereafter, which you claim or contend constitutes proof that employment decisions concerning you were based on your gender or your alleged reporting of discrimination or harassment.
6. Please (a) identify each alleged unlawful employment practice at Mike Patton Ford which caused you to suffer any injuries or damages; (b) identify each person committing each such alleged unlawful employment practice; (c) provide the date or

approximate date for each such act; and (d) the identify of all persons possessing knowledge of each such act.

7. Itemize each element of your claimed compensatory damages, and for each state the amount you claim would be required to reasonably compensate you therefore. If any amount stated in your response requires a calculation using any mathematical formula, please identify the formula used in making your calculations.
8. For each employer of yours since applying for employment at Mike Patton Ford, state the name and address thereof, your rate of pay and terms of compensation and the total amount earned while employed, to date.
9. State each thing done by Mike Patton Ford which you claim constitutes evidence of wilful or intentional wrongful conduct of Mike Patton Ford. For each thing identified state the name of the person or persons committing the act and the date or approximate date of the act.
10. Please identify (name and last known address), each person known to possess discoverable knowledge of the facts supporting your claims, contentions and damages in this action.
11. If you have ever been a party to any: (a) bankruptcy proceeding; (b) Equal Employment Opportunity Commission investigation; or (c) civil action in which you have sued or been sued, state the parties to said action, the case number or EEOC charge number, and the court where any court proceeding was filed.

12. If you have ever been convicted of any crime within the preceding 10 years, or any crime involving dishonesty whenever the conviction occurred, state: (a) the date or approximate date; (b) the jurisdiction arresting you; (c) the stated reason for the arrest and (d) the disposition of the charges brought against you.

REQUEST FOR PRODUCTION

1. Produce all audio tapes bearing the voice of any alleged or claimed agent, servant or employee of Mike Patton Ford.
2. Produce all correspondence or other tangible documents transmitted by or for you to Mike Patton Ford of or concerning any aspect of your employment therewith.
3. Produce all correspondence or other tangible documents received by you or by anyone acting on your behalf, from Mike Patton Ford of or concerning any aspect of your employment therewith.
4. Produce all documents supporting your claim and contention that you were subjected to gender based harassment or discrimination by Mike Patton Ford.
5. Produce all documents supporting your claim and contention that you were subjected to any form of retaliation at Mike Patton Ford.
6. Produce all documents establishing or supporting the nature and amount of your damage claims against Mike Patton Ford.

7. Produce all diaries, logs, notes or other contemporaneously maintained records of your dealings with any agent, servant or employee of Mike Patton Ford.
8. Produce your state and federal tax returns for 2002, 2003, 2004, 2005, 2006, and your year to date earnings for 2007.
9. Produce all records of your employment and income with any employer since being terminated by Mike Patton Ford.
10. Produce all documents supporting your claims and contentions that Mike Patton Ford committed any unlawful acts.
11. Produce all statements you have obtained from other persons related in any way to:
(a) Mike Patton Ford's employment practices; (b) the facts and circumstances supporting your claims and contentions against Mike Patton Ford set out in your complaint.
12. Produce all documents submitted by or for you to, or obtained by you or anyone acting on your behalf from, the Equal Employment Opportunity Commission related to the charge filed by you against Mike Patton Ford and charges filed by you against any other business with whom you have been employed.
13. Produce all records of any formal or informal claims made by you against any former employer for sexual harassment, racial harassment, discrimination or retaliation.

Respectfully submitted,



John Martin Galese, Esq. (ASB5382E61J)

Of Counsel:

GALESE & INGRAM, P.C.

300 First Commercial Bank Building

800 Shades Creek Parkway

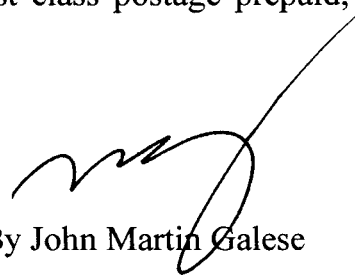
Birmingham, Alabama 35209

Telephone: (205) 870-0663

Facsimile: (205) 870-0681

CERTIFICATE OF SERVICE

I hereby certify that I have delivered a copy of the foregoing discovery to Plaintiff's attorney, at his proper office address, by US Mail, first class postage prepaid, and by facsimile mail thereto on January 2, 2008.



By John Martin Galese

From: "Benjamin H. Parr" <benjaminparr@bellsouth.net>
To: "John Galese" <John@galese-ingram.com>
Date: 2/10/08 3:41PM
Subject: RE: Sherman v Mike Patton Ford/9182565

John,

Your discovery responses are prepared. My client is coming in tomorrow to sign them, and they will go out in the afternoon mail. I have a conflict I am trying to resolve for the scheduled deposition on 2/18, but we may have to reschedule it. I'll let you know in the next day or two.

Ben

-----Original Message-----

From: John Galese [mailto:John@galese-ingram.com]
Sent: Tuesday, February 05, 2008 12:09 PM
To: benjaminparr@bellsouth.net
Cc: jennifer.james@zurichna.com
Subject: RE: Sherman v Mike Patton Ford/9182565

I will hold off filing any motion until Monday. JMGalese

John Martin Galese, Esq.
Galese & Ingram, PC
800 Shades Creek Parkway, Suite 300
Birmingham, AL 35209
205-870-0663-telephone
205-870-0681-facsimile

>>> "Benjamin H. Parr" <benjaminparr@bellsouth.net> 02/05/08 10:49 AM >>>
John,

My client indicated that she had some delay in getting the information. She is to be in tomorrow with her responses, and I'll get them prepared and out to you by the end of the week. Sorry for the few days delay.

Ben

From: John Galese [mailto:John@galese-ingram.com]
Sent: Tuesday, February 05, 2008 7:03 AM
To: benjaminparr@bellsouth.net
Cc: kposey@kenboggs.com
Subject: Sherman v Mike Patton Ford/9182565

Dear Ben: My records indicate that yesterday was your client's deadline to respond to my client's written discovery. Please advise if the responses are "in the mail". I will hold off until Monday before I file a motion with the Court, hopefully to either hear from you or receive the responses.

EXHIBIT B

Thanks. JMGalese

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